



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126521-0640-02]

RIN 0648-XA906

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2012 Bering Sea Pollock Total Allowable Catch Amount

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS is adjusting the 2012 total allowable catch (TAC) amount for the Bering Sea pollock fishery. This action is necessary because NMFS has determined this TAC is incorrectly specified. This action will ensure the Bering Sea pollock TAC is the appropriate amount based on the best available scientific information for pollock in the Bering Sea subarea. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], until the effective date of the final 2012 and 2013 harvest specifications for BSAI groundfish, unless otherwise modified or superseded through publication of a notification in the Federal Register.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL

REGISTER].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2011-0301, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov. To submit comments via the e-Rulemaking Portal, first click the “submit a comment” icon, then enter NOAA-NMFS-2011-0301 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on that line.
- Mail: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.
- Fax: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907-586-7557.
- Hand delivery to the Federal Building: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9th Street, Room 420A, Juneau, AK.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal

identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2012 pollock TAC in the Bering Sea subarea was set at 1,253,658 metric tons (mt) by the final 2011 and 2012 harvest specification for groundfish in the BSAI (76 FR 11139, March 1, 2011). In December 2011, the Council recommended a 2012 pollock TAC of 1,200,000 mt for the Bering Sea subarea. This amount is less than the 1,253,658 mt established by the final 2011 and 2012 harvest specification for groundfish in the BSAI (76 FR 11139, March 1, 2011). The TAC recommended by the Council is based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2011, which NMFS has determined is the best available scientific information for this fishery.

Regulations at § 679.20(a)(5)(i)(B) apportion the pollock TAC allocated to the Bering Sea directed pollock fisheries seasonally to distribute catch over time because pollock is a principal prey species for Steller sea lions listed as endangered under the Endangered Species

Act. The first seasonal apportionment can be harvested quickly, and must reflect the TAC based on the best available scientific information to provide the opportunity to harvest available TAC in a manner consistent with the established Steller sea lion protection measures.

In accordance with § 679.25 (a)(1)(iii) and (a)(2)(i)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that, based on the November 2011 SAFE report for this fishery, the current Bering Sea pollock TAC is incorrectly specified. Consequently, the Regional Administrator is adjusting the 2012 pollock TAC to 1,200,000 mt in the Bering Sea subarea.

Pursuant to § 679.20(a)(5), Table 3 of the final 2011 and 2012 harvest specifications for groundfish in the BSAI (76 FR 11139, March 1, 2011), as adjusted by a reallocation of a portion of the 2011 Aleutian Islands subarea (76 FR 12607, March 8, 2011), is revised for the 2012 pollock TACs consistent with this adjustment.

TABLE 3--FINAL 2011 AND 2012 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA)¹

[All amounts in metric tons]

| Area and sector | 2011 Allocations | 2011 A season ¹ | | 2011 B season ¹ | 2012 Allocations | 2012 A season ¹ | | 2012 B season ¹ |
|---|---------------------|----------------------------|--------------------------------------|-------------------------------|---------------------|----------------------------|--------------------------------------|-------------------------------|
| | | A season DFA | SCA harvest limit ² | B season DFA | | A season DFA | SCA harvest limit ² | B season DFA |
| Bering Sea subarea | 1,266,400 | n/a | n/a | n/a | 1,200,000 | n/a | n/a | n/a |
| CDQ DFA | 127,100 | 50,840 | 35,588 | 76,260 | 120,000 | 48,000 | 33,600 | 72,000 |
| ICA ¹ | 33,804 | n/a | n/a | n/a | 32,400 | n/a | n/a | n/a |
| AFA Inshore | 552,748 | 221,099 | 154,769 | 331,649 | 523,800 | 209,520 | 146,664 | 314,280 |
| AFA Catcher/Processors ³ | 442,198 | 176,879 | 123,816 | 265,319 | 419,040 | 167,616 | 117,331 | 251,424 |
| Catch by C/Ps | 404,612 | 161,845 | n/a | 242,767 | 383,422 | 153,369 | n/a | 230,053 |
| Catch by CVs ³ | 37,587 | 15,035 | n/a | 22,552 | 35,618 | 14,247 | n/a | 21,371 |
| Unlisted C/P Limit ⁴ | 2,211 | 884 | n/a | 1,327 | 2,095 | 838 | n/a | 1,257 |
| AFA Motherships | 110,550 | 44,220 | 30,954 | 66,330 | 104,760 | 41,904 | 29,333 | 62,856 |
| Excessive Harvesting Limit ⁵ | 193,462 | n/a | n/a | n/a | 183,330 | n/a | n/a | n/a |
| Excessive Processing Limit ⁶ | 331,649 | n/a | n/a | n/a | 314,280 | n/a | n/a | n/a |
| Total Bering Sea DFA | 1,105,496 | 442,198 | 309,539 | 663,298 | 1,047,600 | 419,040 | 293,328 | 628,560 |
| Aleutian Islands subarea ¹ | 4,600 | n/a | n/a | n/a | 19,000 | n/a | n/a | n/a |
| CDQ DFA | 0 | 0 | n/a | 0 | 1,900 | 760 | n/a | 1,140 |
| ICA | 1,600 | 800 | n/a | 800 | 1,600 | 800 | n/a | 800 |
| Aleut Corporation | 3,000 | 3,000 | n/a | 0 | 15,500 | 15,500 | n/a | 0 |
| Bogoslof District ICA ⁷ | 150 | n/a | n/a | n/a | 150 | n/a | n/a | n/a |

¹ Pursuant to § 679.20(a)(5)(i)(A), the Bering Sea subarea pollock, after subtraction for the CDQ DFA (10 percent) and the ICA (3 percent), is allocated as a DFA as follows: inshore sector - 50 percent, catcher/processor sector (C/P) - 40 percent, and mothership sector - 10 percent. In the Bering Sea subarea, 40 percent of the DFA is allocated to the A season (January 20-June 10) and 60 percent of the DFA is allocated to the B season (June 10-November 1). Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) and (ii), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (1,600 mt), is allocated to the Aleut Corporation for a directed pollock fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the directed pollock fishery.

² In the Bering Sea subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of SCA before April 1 or inside the SCA after April 1. If less than 28 percent of the annual DFA is taken inside the SCA before April 1, the remainder will be available to be taken inside the SCA after April 1.

³ Pursuant to § 679.20(a)(5)(i)(A)(4), not less than 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

⁴ Pursuant to § 679.20(a)(5)(i)(A)(4)(iii), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

⁵ Pursuant to § 679.20(a)(5)(i)(A)(6), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

⁶ Pursuant to § 679.20(a)(5)(i)(A)(7), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

⁷ The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and § 679.25(c)(1)(ii) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would require the Bering Sea pollock harvests to be higher than the appropriate allocations for pollock based on the best scientific information available. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 13, 2011, and additional time for prior public comment would result in conservation concerns for the ESA-listed Steller sea lions.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

This action is required by § 679.22 and § 679.25 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: December 23, 2011

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

[FR Doc. 2011-33438 Filed 12/28/2011 at 8:45 am; Publication Date: 12/29/2011]